

The First Trials of a Young Lawyer

It was just three weeks after I had been separated from the city payroll by way of an adverse election that I got my first case. Since it is unethical to solicit business, I had to wait until it solicited me, and it did so on Park row in the person of a former neighbor whom I had not seen in years.

"Hello, there!" he hailed. "What are you doing for a living now?"

"Oh," I replied easily, "I'm still practicing law."

That word still was meant to imply a long experience as a barrister, solicitor, counselor, proctor and advocate; a thorough conversancy with the law and all its works. I half expected him to remind me that there were 25,000 lawyers in New York city. But no. He said simply:

"I've got a case for you."

He recommended me to a friend of his whose wife knew a woman who was a friend of another woman, the last mentioned being the person in distress whose problem needed a legal solvent.

A dozen or so telephone calls and one personal visit finally resulted in my getting in touch with my prospective client, a Mrs. Viola Betts.

It happened that Mrs. Betts had gone to Europe a few months before to visit her father. Her husband had seen her off with the deep affection that up to the moment had marked their married life. But when she got back, a few days ago, she found strangers living in the apartment that was her home, and they exhibited a bill of sale to all the furniture signed in the unmistakable hand of her astounding husband.

"And here I am," she said, tearfully, "with only five dollars to my name!"

That mention of only five dollars somewhat dulled my enthusiasm, but nevertheless I located the husband and informed him that unless he made some financial provision for the wife "such legal steps would be taken as the circumstances warranted." That was as far as I dared go toward a threat, as it is unethical to threaten, particularly with a suit. I sent the letter, special delivery and registered, "return card requested," to his last known place of business. Two days later the return card came back, as I suspected it would, for I had refrained from using an envelope from my legal stationery, and had addressed the envelope by hand, to give it a personal and disarming touch. And a few hours after the card arrived in my office Friend Husband telephoned me.

"I was out of town," he said. "I didn't expect my wife back so soon. Things are a little bit mixed up for me. Tell her I'll see her in a few days. I'll mail her \$40 right now, and as much every week until things are settled." And he did.

Aside from the shock of shattered matrimony, Mrs. Betts was much aggrieved over the loss of some family heirlooms, precious rather in sentiment than in intrinsic value. She wanted to know whether her husband had any right to sell them, for they had been outright gifts to her from others, and several pieces had been hers before their marriage.

I got a writ in the Municipal Court, which commanded "any Marshal of the city of New York" to seize the enumerated articles—the ones my client claimed were hers, and which composed only a small part of all those listed on the bill of sale—and retain them in his safekeeping until there was a judgment in the case.

To protect the defendant—the man to whom my client's husband had attempted to sell the articles—we had to put up bonds double the amount we estimated the property to be worth, so that if we lost the defendant wouldn't be out of pocket. Also we had to hire a moving van. This was stationed half way down the block, the driver awaiting a signal from the Marshal when to draw up to the door to cart the stuff away. For his services the driver demanded—and received—\$20, part of the aforementioned \$40, all the rest, residue and remainder, as the legal phrase has it, going to the City Marshal.

My client, the Marshal and I went to the apartment. He knocked at the door, and when a woman half opened it shoved his foot between the jamb and the door with professional skill. We piled inside and confronted the woman in the dining room.

Her name was Mrs. Agar. Under her maiden name, I have since been informed, she established something of a reputation for herself. Her title to fame, I believe, was earned first by a skillful wielding of the tennis racquet. Also, it seems, at swimming she was not much worse than Helen Wainwright, Alleen Riggins or Ethelda Bleibtrey. My object is not to insinuate, however, that she could have expelled all three of us by brute force.

"We came here, ma'am, to take away some of your furniture," explained the Marshal. "It's all right. There ain't nothin' to worry about, because this order [exhibiting it] was signed by the Judge, and if the lady here doesn't win the case you get the stuff back and she pays the expenses."

But Mrs. Agar dashed for the parlor window. She glanced up and down the street hurriedly, then screamed:

"Police! Police!"

The Marshal heard the policeman's quick but heavy steps on the staircase and went into the hallway to meet him. They had met before, many's the time, under circumstances precisely like these. They entered the apartment together. The policeman listened to Mrs. Agar's brief wail, then said that the Judge's signature to the order was gen-u-wine (though I suspect he had not taken the trouble even to look at it) and that Mrs. Agar must allow the articles to be taken away as the court ordered.

A Woman Drives Home Her Protest.

The packing was done by the Marshal. He was quite methodical and unsentimental about it, while my client addressed Mrs. Agar in terms of deep compassion, deploring her own husband's wild streak that had led to such a trying situation for both women. I myself was half tempted to chime in with words of sympathy, for certainly Mrs. Agar was innocent enough of any wrongdoing, yet was being harassed, though necessarily so. But the two women kept up a buzz of condolences with excluding effect, Mrs. Agar pitying any woman whose husband sold her out and left her penniless and on the mercy of the world.

Then—then came the checking up process, and we discovered that two ornaments, heirlooms among heirlooms in my client's estimation, had not been taken. But on the mantelpiece some irregular objects were covered with threeply cheese-cloth, which, as I recall it, had not been curtaining off any specimens of interior art when we entered. I whispered to the Marshal, who walked leisurely to the mantelpiece. Mrs. Agar must have had an especial liking for these heirlooms—yes, an affection that vied with my client's. As soon as the Marshal lifted the veil she began to denounce me in merciless and, I thought, undeserved superlatives.

"Y-you—you shyster lawyer!" she finally cried.

Suddenly that right arm of hers, so splendidly exercised at tennis and rounded out by the trudgeon and the breast stroke, flashed straight out and caught me in the stomach. She knocked the wind completely out of me so that I fell to my knees, gasping for breath, but, for a while, in vain. After some writhing, and despite first aid that my client felt compelled to administer, I was able to stand up after more than the ten technical seconds had elapsed. . . . But we finally got all those ornaments out.

At the trial we lost. I appealed and a new trial was ordered. Before the date of the second trial my client and her husband, largely through my efforts, became reconciled, the replevin case was dropped and the reunited couple lived happily ever afterward.

How much of a fee did I get? Ah, speak not of phantom topics, tempt me not to set forth what the reality lacks!

Giving the Jury an Inside Tip.

At the suggestion of one of the best minds among the lawyers I knew—and he, too, only had desk room—I had my name placed on the list of lawyers compiled by judges in the criminal court, so that indigent defendants might have counsel assigned to them. My first assignment was in the case of the People against one William Wagger, indicted as a second offender, charged with robbery, grand larceny and assault. He had served a term in Elmira on a plea of guilty of petty larceny.



"Y—you—you shyster lawyer!" she finally cried.

"I didn't do nothin'," Bill assured me. "The cops say I wuz lookout man, but that's a lie. I'll leave it to any jury."

After we had discussed the case he said:

"I wouldn't take any plea. I don't care if they'd take even petty larceny. If I'm gonna get punished I don't wanna go to Elmira, where you has to drill all day like a buck private. I'd take Sing Sing instead."

Prison sentence of double severity may be inflicted on second offenders and if convicted on all three counts he could get forty years.

He insisted on going to trial and I went to see his parents, who had left him to his own salvation, for he had been a source of trouble and expense to them and they were poor. But I induced them to send down a white shirt, pressed trousers, shined shoes and a stiff collar and neat tie, lest he be convicted on his appearance alone.

It so happened at the trial that one of those big scenes, something on the order of those that grace the third act of the dramas, developed. Bill was being cross-examined by the prosecutor.

"On the night of March 24th last," asked the prosecutor, "were you at Third avenue and Eighteenth street, about 9 o'clock?"

"No, sir. Not that I know of."

"Don't you know that a man was shot dead at that time and place?"

"I heard somethin' about a man in a kilt there, but I didn't see it."

"As a matter of fact, didn't you kill that man?"

"No!" The answer was half shouted as the witness, gripping the arms of the chair, leaned forward, looking first at the prosecutor, then at the judge, then at the jury. Bill curled his lip as he leaned back.

The prosecutor lowered his accusing finger. There was a brief silence. The judge relaxed in his chair. The jurors looked bewildered.

The murder question was brand new to me. I was almost swept off my feet by the sudden turn of the case. What answers my client had given meant nothing, I realized; the minds of the jury had been poisoned with the notion that he had killed a man. For all I knew then the intimation given by the pros-

ecutor's questions might be true. At the close of this line of questioning I entered objections but they were overruled. I learned later that the prosecutor had a right to ask the murder question, because a defendant in a criminal case who takes the stand in his own behalf may be asked any questions concerning any criminal or vicious acts of his life. Also I learned later from the judge himself that the police suspicion on which the prosecutor's murder question was based was entirely unfounded. This came out a few weeks after the trial, when the real murderer was arrested.

Some of the jurors were excused for a few moments prior to the summing up. Meanwhile the prosecutor and his clerk were sitting at the end of the oak counsel table nearest the judge's bench. I was sitting in the middle, the defendant, a much worried youth, at the far end.

The prosecutor, a member of my political club, with whom I had more than a slight acquaintance, began whispering to his clerk, cupping his hand as if to prevent me from hearing. But I caught every word.

"What date did I say it was that Shaw was shot dead?" he asked.

"You said Shaw was killed March 24th," answered the clerk.

"Why didn't you correct me? That's what you're here for. Shaw was killed March 14th."

The twelve jurors were back in their seats. I got my cue from the judge to begin my closing address. I fairly cried:

"If ever there was an attempt to bolster up a weak case with fiction, falsehood and injustice and to cover up the failure of the police to capture the real murderer and the real culprit in this store robbery, it was in the treacherous innuendo that this defendant murdered Shaw!"

Of course the prosecution has the last word with the jury. That hurts often. The Assistant District Attorney wound up his closing address with this injunction:

"And remember, gentlemen of the jury, that nobody mentioned the name of the slain man in court—except counsel for the defense."

Bill got six, not forty years.

To Please the Palate

Continued from Page Four.

ago, but there are more babies to the square family on the Canadian codfish coast than any place I have ever seen where polygamy was not in vogue. All over the world there are food schedules just as scant as this, and people thriving on them age after age. The chemistry of them would be a revelation. How does the Turkoman of the Asiatic steppes keep on being the daredevil husky that he is, with no grub to speak of save rice stewed up in sheep tail fat? What is the magic in bread and an onion and a piece of cheese that makes the Italian contract laborer the very best rock man in the world? One reason is doubtless that through age-long experimentation the diet has been fitted to the climate and the work, just as it has been fitted to the pocketbook.

As for the culture—when a race gets rich it starts after culture, and then note the result. The Roman soldier—it is an old saying—thrashed the world as long as he lived on beans. When he took to salami of duck and nightingales' tongues the rest of the world thrashed him. The

palate—when wedded to the pocketbook—has created a gastronomic art, but it has brought cirrhosis and diabetes and a thousand other ills into the world. It has put races on the toboggan, scrapped thrones and changed the map of the globe. But we have only one life to live, and anybody who can't train on goose liver pate can stick to graham crackers and milk.

You may regret not being able to run the hundred in nine and a half after you're fifty, but then, think of the reed birds done in Marsala and the Spanish melons drenched with iced Asti, and the spiced hares in aspic, the dainty sandabs and the terrapin, and the long hung venison, fragrant with Madeira and all the spices of Ceylon.

One thing is sure, the Digger Indian has no gastronomic memories to cheer his death bed. Absinthe in a salad dressing will, by some process of solution wrought by vinegar and oil, give you in clarity the five delectable fresh herb flavors of the ideal salad—even in mid-winter. But this is a morsel of knowledge which is not buried with our Indian, because—simple soul—he never had it.